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NO.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

CITY OF NORTH OLMSTED, OHIO,

PETITIONER

vs.

GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY,

RESPONDENT

APPENDIX B: CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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28 U.S.C. Section 1254(1)

Section 1254. Courts of appeals; certiorari; appeal; certified questions

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

Section 2 of the Sherman Antitrust Act, 15 U.S.C. Section 2

"Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding one million dollars if a corporation, or, if any other person, one hundred thousand dollars, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court."

Article XVIII, Section 4, of the Ohio Constitution

"Any municipality may acquire, construct, own, lease and operate within or without its corporate limits, any public utility the products or service of which is or is to be supplied to the municipality or its inhabitants, and may contract with others for any such product or service. The acquisition of any such utility may be by condemnation or otherwise, and a municipality may acquire thereby the use of, or full title to, the property and franchise of any company or person supplying to the municipality or its inhabitants the service or product of any such utility."

REGIONAL TRANSIT AUTHORITY

306.30 Definitions

As used in sections 306.30 to 306.53, inclusive, of the Revised Code, "transit facility" means any:

(A) Street railway, motor bus, tramline, subway, monorail, rapid transit, aeroplane, helicopter, ferry, or other ground or water transportation system having as its primary purpose the regularly scheduled mass movement of passengers between locations within the territorial boundaries of a regional transit authority, including all right-of-way, power lines, roling stock, equipment, machinery, terminals, buildings, administration and maintenance and repair facilities and supporting parking facilities, and franchise rights attendant thereto, but excluding therefrom trucks and facilities designed for use in the movement of property by truck;

(B) Docks, wharves, warehouses, piers, and other port, terminal, or transportation facilities and marinas;

(C) Facilities used, available for use, or designed for use to aid in the safe taking off or landing of aircraft, for the safety, storage, and maintenance of aircraft, for the comfort and accomodation of users of air transportation, including persons, property, and mail, or from the safe and efficient operation and maintenance of an airport; and buildings and facilities as are reasonably necessary for the comfort and accomodation of the users of transit facilities; or

(D) Any combination of the foregoing.

HISTORY: 1970 S 125, eff. 8-25-70
131 v H 421

306.32 Resolution or ordinance to create authority; filing procedures; referendum; territorial boundaries

Any county, or any two or more counties, municipal corporations, townships, or any combination thereof, may create a regional transit authority by the adoption of a resolution or ordinance by the board of county commissioners of each county, the legislative authority of each municipal corporation, and the board of township trustees of each township which is to create or to join in the creation of the regional transit authority. Such resolution or ordinance shall state:

(A) The necessity for the creation of a regional transit authority;

(B) The counties, municipal corporations, or townships which are to create or to join in the creation of the regional transit authority;

(C) The official name by which the regional transit authority shall be known;

(D) The place in which the principal office of the regional transit authority will be located or the manner in which it may be selected;

(E) The number, term, and compensation, which shall not exceed the sum of fifty dollars for each board and committee meeting attended by a member, of the members of the board of trustees of the regional transit authority;

(F) The manner in which vacancies on the board of trustees of the regional transit authority shall be filled;

(G) The manner and to what extent

the expenses of the regional transit authority shall be apportioned among the counties, municipal corporations, and townships creating it;

(H) The purposes, including the kinds of transit facilities, for which the regional transit authority is organized.

The regional transit authority provided for in such resolution or ordinance shall be deemed to be created upon the adoption of such resolution or ordinance by the board of county commissioners of each county, the legislative authority of each municipal corporation, and the board of township trustees of each township enumerated in the resolution or ordinance.

The resolution or ordinance creating a regional transit authority may be amended to include additional counties, municipal

corporations, or townships or for any other purpose, by the adoption of such amendment by the board of county commissioners of each county, the legislative authority of each municipal corporation, and the board of township trustees of each township which has created or joined or proposes to join the regional transit authority.

After each county, municipal corporation, and township which has created or joined or proposes to join the regional transit authority has adopted its resolution or ordinance approving inclusion of additional counties, municipal corporations, or townships in such regional transit authority, a copy of each such resolution or ordinance shall be filed with the clerk of the board of the county commissioners of each county, of the legislative authority of each municipal corporation, and of the board of trustees of each township proposed

to be included in the regional transit authority. Such inclusion is effective when all such filing has been completed, unless the regional transit authority to which territory is to be added has authority to levy an ad valorem tax on property, or a sales tax, within its territorial boundaries, in which event such inclusion shall become effective on the sixtieth day after the last such filing is accomplished, unless, prior to the expiration of such sixty day period, qualified electors residing in the area proposed to be added to the regional transit authority, equal in number to at least ten percent of the qualified electors from such area who voted for governor at the last gubernatorial election, file a petition of referendum against such inclusion. Any petition of referendum filed under this section shall be filed at the office of the secretary of

the board of trustees of the regional transit authority. The person presenting the petition shall be given a receipt containing thereon the time of the day, the date, and the purpose of the petition. The secretary of the board of trustees of the regional transit authority shall cause the appropriate board or boards of elections to check the sufficiency of signatures on any petition of referendum filed under this section and, if found to be sufficient, shall present the petition to the board of trustees at a meeting of said board which occurs not later than thirty days following the filing of said petition. Upon presentation to the board of trustees of a petition of referendum against the proposed inclusion, the board of trustees shall promptly certify the proposal to the board or boards of elections for the purpose of having the proposal placed on the ballot at

the next general or primary election which occurs not less than seventy-five days after the date of the meeting of said board, or at a special election, the date of which shall be specified in the certification, which date shall be not less than seventy-five days after the date of such meeting of the board. Signatures on a petition of referendum may be withdrawn up to and including the meeting of the board of trustees certifying the proposal to the appropriate board or boards of elections. If territory of more than one county, municipal corporation, or township is to be added to the regional transit authority, the electors of such territories of the counties, municipal corporations, or townships which are to be added shall vote as a district and the majority affirmative vote shall be determined by the vote cast in such district as a whole. Upon certifi-

cation of a proposal to the appropriate board or boards of elections pursuant to this section, such board or boards of election shall make the necessary arrangements for the submission of such questions to the electors of the territory to be added to the regional transit authority qualified to vote thereon and the election shall be held, canvassed, and certified in the manner provided for the submissions of tax levies under section 5705.191 of the Revised Code, except that the question appearing on the ballot shall read:

"Shall the territory within the.....

.....
(Name or names of political subdivisions to be joined)

be added to.....regional
(Name)

transit authority?" and shall a(n)

.....(here insert type of tax or taxes) at a rate of taxation not to exceed....(here insert maximum tax

rate or rates) be levied for all transit purposes?"

If the question is approved by at least a majority of the electors voting on such question, such joinder is immediately effective and the regional transit authority may extend the levy of such tax against all the taxable property within the territory which has been added. If such question is approved at a general election or at a special election occurring prior thereto but after the fifteenth day of July, the regional transit authority may amend its budget and resolution adopted pursuant to section 5705.34 of the Revised Code and such levy shall be placed on the current tax list and duplicate and collected as other taxes are collected from all taxable property within the territorial boundaries of the regional transit authority, including the territory within each political sub-

division added as a result of such election.

The territorial boundaries of a regional transit authority shall be co-extensive with the territorial boundaries of the counties, municipal corporations, and townships included within the regional transit authority, provided that the same area may be included in more than one regional transit authority so long as the regional transit authorities are not organized for purposes as provided for in the resolutions or ordinances creating the same, and any amendment thereto, relating to the same kinds of transit facilities; and provided further, that if a regional transit authority includes only a portion of an entire county, a regional transit authority for the same purposes may be created in the remaining portion of the same county by resolution of the board of county commissioners acting alone or in

conjunction with municipal corporations and townships as provided in this section.

No regional transit authority shall be organized after January 1, 1975 to include any area already included in regional transit authority, except that any regional transit authority organized after the effective date of this section and having territorial boundaries entirely within a single county shall, upon adoption by the board of county commissioners of such county of a resolution creating a regional transit authority including within its territorial jurisdiction the existing regional transit authority and for purposes including the purposes for which such existing regional transit authority was created, be dissolved and its territory included in such new regional transit authority. Any resolution creating such new regional

transit authority shall make adequate provision for satisfaction of the obligations of the dissolved regional transit authority.

HISTORY, 1980 H 1062, eff. 3-23-81
1974 S 544; 1970 S 125; 132 v H 1;
131 v H 421

306.321 Inclusion of additional subdivisions by amendment.

The resolution or ordinance creating a regional transit authority may be amended to include additional counties, municipal corporations, or townships by the adoption of such amendment by the board of county commissioners of each county, the legislative authority of each municipal corporation, and the board of township trustees of each township which has created or theretofore joined or proposes to join the regional transit authority.

After each county, municipal corpor-

ation, and township which has created or theretofore joined or proposes to join the regional transit authority has adopted its resolution or ordinance approving inclusion of additional counties, municipal corporations, or townships in such regional transit authority, a copy of each such resolution or ordinance shall be filed with the clerk of the board of the county commissioners of each county, of the legislative authority of each municipal corporation, and of the board of trustees of each township proposed to be included in the regional transit authority.

Any ordinances or resolutions adopted pursuant to this section approving inclusion of additional counties, municipal corporations, or townships in such regional transit authority shall provide that the board of trustees of such regional transit authority must, not later than the tenth

day following the day on which the filing of the ordinances or resolutions, as required by the immediately preceding paragraph, is completed, adopt its resolution providing for submission to the electors of the regional transit authority as enlarged, of the question pursuant to section 306.49 of the Revised Code, of the renewal, the renewal and increase, or the increase of, or the imposition of an additional, ad valorem tax, or of the question pursuant to section 306.70 of the Revised Code, of the renewal, the renewal and increase, or the increase of, or the imposition of an additional, sales and use tax. The resolution submitting the question of the tax shall specify the date of the election which shall be not less than seventy-five days after certification of such resolution to the board of elections and which shall be consistent with the requirements of

section 3501.01 of the Revised Code. The inclusion of the territory of the additonal counties, municipal corporations, or townships in the regional transit authority shall be effective as of the date on which the resolution of the board of trustees of the regional transit authority is adopted submitting the question to the electors, provided that until the question is approved, existing contracts providing payment for transit services within the added territory shall remain in effect and transit services shall not be affected by the inclusion of the additional territory. The resolution shall be certified to the board of elections and the election shall be held, canvassed, and certified as provided in section 306.49 of the Revised Code in the case of an ad valorem tax or in section 306.70 of the Revised Code in the case of a sales and use tax.

If the question of the tax which is submitted is not approved by a majority of the electors of the enlarged regional transit authority voting thereon, as of the date following the day on which the results of such election became conclusive, the additional counties, municipal corporations, or townships, which had been included in the regional transit authority as of the date of the adoption of the resolution submitting to the electors the question, shall be removed from the territory of such regional transit authority and shall no longer be a part of that authority without any further action by either the political subdivisions which were included in the authority prior to the adoption of the resolution submitting the question to the electors or of the political subdivisions added to the authority as a result of the adoption of such

resolution. The regional transit authority reduced to its territory as it existed prior to the inclusion of the additonal counties, municipal corporations, or townships, shall be entitled to levy and collect any ad valorem or sales and use taxes which it was authorized to levy and collect prior to the enlargement of its territory and for which authorization has not expired, as if such enlargement had not occurred.

If the question of the tax which is submitted provides for a sales and use tax to be imposed and the question is approved, and the regional transit authority had previously been authorized pursuant to section 306.49 of the Revised Code to levy an ad valorem tax, then the regional transit authority shall appropriate from the first moneys received from such sales and use tax in each year, the full amount

required in order to pay the principal of and interest on any notes of the regional transit authority issued pursuant to section 306-49 of the Revised Code, in anticipation of the collection of such ad valorem tax; and shall not thereafter levy and collect the ad valorem tax previously approved unless such levy and collection is necessary to pay the principal of and interest on notes issued in anticipation of such tax in order to avoid impairing the obligation of the contract between the regional transit authority and the note holders.

If the question of the additional or renewal tax levy is approved, then such tax may be levied and collected as is otherwise provided for an ad valorem tax or a sales and use tax imposed by a regional transit authority, provided that if a question relating to an ad valorem tax is

approved at the general election or at a special election occurring prior thereto, but after the fifteenth day of July, the regional transit authority may amend its budget for its next fiscal year and its resolution adopted pursuant to section 5705.34 of the Revised Code or adopt such resolution, and such levy shall be placed on the current tax list and duplicate and collected as all other taxes are collected from all taxable property within the enlarged territory of the regional transit authority including the territory within each political subdivision which has been added to the regional transit authority pursuant to this section, provided further that if a question relating to sales and use tax is approved after the fifteenth day of July in any calendar year, th regional transit authority may amend its budget for the current and next fiscal year

and any resolution adopted pursuant to section 5705.34 of the Revised Code, to reflect the imposition of such sales and use tax and shall amend its budget for the next fiscal year and any resolution adopted pursuant to section 5705.34 of the Revised Code to comply with the immediately preceding paragraph. If the budget of the regional transit authority is amended pursuant to this paragraph, the county auditor shall prepare and deliver an amended certificate of estimated resources to reflect the change in anticipated revenues of the regional transit authority.

The procedures of this section are in addition to and an alternative to those established in section 306.32 of the Revised Code for joining to a regional transit authority additional counties, municipal corporations, or townships.

HISTORY: 1981 H 235, eff. 1-1-82
1980 H 1062; 1975 S 300

306.33 Board of trustees; officers

Within sixty days after a regional transit authority has been created under section 306.32 of the Revised Code, the board of trustees for such regional transit authority shall be appointed as provided in this section.

Members of a board of trustees of an authority created by the exclusive action of a county shall be appointed by the county commissioners of such county. A board of trustees of an authority created by two or more political subdivisions shall consist of such number of members, who shall have such qualifications and who shall be appointed by such public officers as shall be provided in the resolutions or ordinances creating such authority or any amendments thereto. If the resolutions or ordinances creating such authority, or any amendments thereto, so provide, then

the governor shall appoint such members of the board of a regional transit authority as provided in such resolutions and ordinances. The appointing authority may at any time remove a trustee for misfeasance, nonfeasance, or malfeasance in office.

The trustees of any authority first appointed shall serve staggered terms. Thereafter each successor shall serve terms of three years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term. Any appointed trustee is eligible for reappointment.

A majority of the board of trustees constitute a quorum, the affirmative vote of which is necessary for any action taken by the authority. No vacancy in the board shall impair the rights of a quorum to exercise all rights and perform all the

duties of the authority.

Each member of the board of trustees, before entering upon his official duties, shall take and subscribe to an oath or affirmation that he will honestly, faithfully, and impartially perform the duties of his office, and that he will not be personally interested directly or indirectly in any contract let by the regional transit authority.

After each member of the board has taken the oath as prescribed by this section the board shall meet and organize by electing one of its members as president and another as vice-president, who shall hold their respective offices until the next annual meeting of the board as provided in its bylaws. At each annual meeting thereafter the board shall elect from its membership a president and a vice-president who shall serve for a term of one year.

The board shall appoint and fix the compensation of a secretary-treasurer, who shall be the fiscal officer and shall not be a member of the board and who shall serve at the pleasure of the board. Each member of the board of trustees is entitled to receive from the regional transit authority reimbursement for his reasonable expenses in the performance of his duties.

HISTORY: 1974 S 544, eff. 6-29-74

1970 S 125; 131 v H 421

306.34 Board of trustees to manage and conduct affairs

All the power and authority granted to a regional transit authority shall be vested in and exercised by its board of trustees which shall manage and conduct its affairs. The board shall, within the limitations of sections 306.30 to 306.47, inclusive, of the Revised Code, by its rules and regulations, provide the pro-

cedure for its actions, the manner of selection of its president, vice-president, secretary-treasurer, and other officers and employees, their titles, terms of office, compensation, duties, number and qualifications, and any other lawful subject necessary to the operation of the regional transit authority and the exercise of the powers granted to it.

HISTORY: 131 v H 421, eff. 11-1-65

306.35 Powers and duties

Upon the creation of a regional transit authority as provided by section 306.32 of the Revised Code, and upon the qualifying of its board of trustees and the election of a president and a vice-president, said authority shall exercise in its own name all the rights, powers, and duties vested in and conferred upon it by sections 306.30 to 306.53 of the Revised Code, and, subject to such reservations,

limitations, and qualifications as are set forth therein, said regional transit authority:

(A) May sue or be sued in its corporate name;

(B) May make contracts in the exercise of the rights, powers, and duties conferred upon it;

(C) May adopt and at will alter a seal and use such seal by causing it to be impressed, affixed, reproduced, or otherwise used, but failure to affix the seal shall not affect the validity of any instrument;

(D) May make, adopt, amend, and repeal bylaws for the administration of its affairs and rules for the control of the administration and operation of transit facilities under its jurisdiction, and for the exercise of all of its rights of ownership therein;

(E) May fix, alter, and collect fares, rates, and rentals and other charges for the use of transit facilities under its jurisdiction to be determined exclusively by it for the purpose of providing for the payment of the expenses of the regional transit authority, the acquisition, construction, improvement, extension, repair, maintenance, and operation of transit facilities under its jurisdiction, the payment of principal and interest on its obligations, and to fulfill the terms of any agreements made with purchasers or holders of any such obligations, or with any person or political subdivision;

(F) Shall have jurisdiction, control, possession, and supervision of all property, rights, easements, licenses, moneys, contracts, accounts, liens, books, records, maps, or other property rights and

interests conveyed, delivered, transferred, or assigned to it;

(G) May acquire, construct, improve, extend, repair, lease, operate, maintain or manage transit facilities within or without its territorial boundaries, deemed necessary to accomplish the purposes of its organization and make changes for the use of transit facilities;

(H) May levy and collect taxes as provided in sections 306.40 and 306.49 of the Revised Code;

(I) May issue bonds secured by its general credit as provided in section 306.40 of the Revised Code;

(J) May hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease as lessee or lessor, use, and sell real and personal property, or any interest or right therein, within or without its territorial bound-

aries, for the location or protection of transit facilities and improvements and access thereto, the relocation of buildings, structures, and improvements situated on lands acquired by the regional transet authority, or for any other necessary purpose, or for obtaining or storing materials to be used in constructing, maintaining, and improving transit facilities under its jurisdiction;

(K) May exercise the power of eminent domain to acquire property or any interest therein, within or without its territorial boundaries, which is necessary or proper for the construction or efficient operation of any transit facility or access thereto under its jurisdiction in accordance with section 306.36 of the Revised Code;

(L) May provide by agreement with any county, including the counties within its

territorial boundaries, or any municipal corporation or any combination thereof for the making of necessary surveys, appraisals, and examinations preliminary to the acquisition or construction of any transit facility and the amount of the expense thereof to be paid by each such county or municipal corporation;

(M) May provide by agreement with any county, including the counties within its territorial boundaries, or any municipal corporation or any combination thereof for the acquisition, construction, improvement, extension, maintenance, or operation of any transit facility owned or to be owned and operated by it or owned or to be owned and operated by any such county or municipal corporation and the terms on which it shall be acquired, leased, constructed, maintained, or operated, and the amount of the cost and expense

thereof to be paid by each such county or municipal corporation;

(N) May issue revenue bonds for the purpose of acquiring, replacing, improving, extending, enlarging, or constructing any facility or permanent improvement which it is authorized to acquire, replace, improve, extend, enlarge, or construct, including all costs in connection with and incidental to such acquisition, replacement, improvement, extension, enlargement, or construction, and the financing thereof, as provided by section 306.37 of the Revised Code;

(O) May enter into and supervise franchise agreements for the operation of a transit system;

(P) May accept the assignment of and then supervise an existing franchise agreement for the operation of a transit system;

(Q) May exercise a right to purchase a transit system in accordance with the acquisition terms of an existing franchise agreement; and in connection with such purchase the regional transit authority may issue revenue bonds as provided by section 306.37 of the Revised Code or issue bonds secured by its general credit as provided in section 306.40 of the Revised Code.

(R) May apply for and accept grants or loans from the United States, the state, or other public body for the purpose of providing for the development or improvement of transit facilities, mass transportation facilities, equipment, techniques, methods, or services, and grants or loans needed to exercise a right to purchase a transit system pursuant to agreement with the owner of such transit facilities, or for providing lawful

financial assistance to existing transit systems; and may provide any consideration which may be required in order to obtain such grants or loans from the United States the state, or other public body, either of which grants or loans may be evidenced by the issuance of revenue bonds as provided by section 306.37 of the Revised Code or general obligation bonds as provided by section 306.40 of the Revised Code;

(S) May employ and fix the compensation of consulting engineers, superintendents, managers, and such other engineering, construction, accounting and financial experts, attorneys, and other employees and agents necessary for the accomplishment of its purposes;

(T) May procure insurance against loss to it by reason of damages to its properties resulting from fire, theft, accident, or other casualties or by reason

of its liability for any damages to perssons or property occurring in the construction or operation of transit facilities under its jurisdiction or the conduct of its activities;

(U) May maintain such funds as it deems necessary for the efficient performance of its duties;

(V) May direct its agents or employees, when properly identified in writing, after at least five days' written notice, to enter upon lands within or without its territorial boundaries in order to make surveys and examinations preliminary to the location and construction of transit facilities, without liability to it or its agents or employees except for actual damage done;

(W) May, on its own motion, request the appropriate zoning board, as defined in section 4563.03 of the Revised Code,

to establish and enforce zoning regulations pertaining to any transit facility under its jurisdiction in the manner prescribed by sections 4563.01 to 4563.21 of the Revised Code;

(X) Shall, if it acquires any existing transit system, assume all the employer's obligations under any existing labor contract between the employees and management of the system. The board shall, if it acquires, constructs, controls, or operates any such facilities, negotiate arrangements to protect the interests of employees affected by such acquisition, construction, control, or operation. Such arrangements shall include, but are not limited to:

(1) The preservation of rights, privileges, and benefits under existing collective bargaining agreements or otherwise, the preservation of rights and

benefits under any existing pension plans covering prior service, and continued participation in social security in addition to participation in the public employees retirement system as required in Chapter 145 of the Revised Code;

(2) The continuation of collective bargaining rights;

(3) The protection of individual employees against a worsening of their positions with respect to their employment;

(4) Assurances of employment to employees of such transit systems and priority reemployment of employees terminated or laid off;

(5) Paid training or retraining program;

(6) Signed written labor agreements.

Such arrangements may include provisions for the submission of labor

disputes to final and binding arbitration.

(Y) May provide for and maintain such security operations as are necessary for the protection of persons and property under its jurisdiction and control. Such employees as the board of trustees of a regional transit authority employs for that purpose are vested with the same powers of arrest as police officers under section 2935.03 of the Revised Code in protecting the property of the regional transit authority and the person and property of passengers. Before exercising such powers, such employee shall take an oath and give a bond to the state in such sum that the board prescribes for the proper performance of his duties.

Such employees shall be required to complete training for the position to which they have been appointed as required by the Ohio peace officers training

council as authorized in section 109.78 of the Revised Code, or be otherwise qualified. The cost of such training shall be provided by the regional transit authority.

(Z) May procure a policy or policies insuring members of its board of trustees against liability on account of damages or injury to persons and property resulting from any act or omission of a member in his official capacity as a member of the board or resulting solely out of his membership thereon.

HISTORY: 1977 S 194. eff. 7-8-77
1976 S 427; 1970 S 125; 131 v H 421

306.36 Appropriation of property; payment in lieu of taxes

(A) The board of trustees of a regional transit authority may exercise the power of eminent domain to appropriate any land, rights, rights-of-way,

franchise, power lines, easements, or other property, within or without the territorial boundaries of the regional transit authority, necessary or proper for the construction or efficient operation of any transit facility or access thereto under its jurisdiction pursuant to the procedure provided in sections 163.01 to 163.22, inclusive, of the Revised Code, and subject to division (B) of this section, provided that a regional transit authority shall not proceed to so appropriate real property outside its territorial boundaries, until it has served at the office of the county commissioners of the county in which it is proposed to appropriate real property, a notice describing the real property to be taken and the purpose for which it is proposed to be taken, and such county commissioners have entered on their journal within thirty days after such service a

resolution approving such appropriation.

(B) Nothing contained in sections 306.30 to 306.53, inclusive, of the Revised Code authorizes a regional transit authority to appropriate any land, rights, rights-of-way, franchises, or easements belonging to the state or a municipal corporation without the consent of the state or municipal corporation, and no regional transit authority shall exercise the right of eminent domain to acquire any certificate of public convenience and necessity, or any part thereof, issued to a motor transportation company by the public utilities commission of Ohio or by the interstate commerce commission of the United States, or to take or disturb other property or facilities belonging to any political subdivision, public corporation, public utility, or common carrier, which property or facility is necessary and

convenient in the operation of such political subdivision, public corporation, public utility, or common carrier, unless provision is made for the restoration, relocation, or duplication of such property or facility, or upon the election of such political subdivision, public corporation, public utility, or common carrier, for the payment of compensation, if any, at the sole cost of the regional transit authority, provided:

(1) If any restoration or duplication of any property or facility proposed to be made under this division involves a relocation of such property or facility the new facility and location thereof shall be of at least comparable utilitarian value and effectiveness and such relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation.

(2) If any restoration or duplication of any property or facility proposed to be made under this division involves a relocation of such property or facility, the regional transit authority shall acquire no interest or right in or to the appropriated property or facility until the relocated property or facility is available for use and until marketable title thereto has been transferred to the public utility or common carrier.

(C) When real property is acquired which is located outside the territorial boundaries of the regional transit authority and which is removed from the tax duplicate, the regional transit authority shall pay annually to the county treasurer of the county in which such property is located, commencing with the first tax year in which such property is removed from the tax duplicate, an amount of money in lieu of taxes

equal to the smaller of the following:

(1) The last annual installment of taxes due from the acquired property before removal from the tax duplicate;

(2) An amount equal to the difference between the combined revenue from real estate taxes of all the taxing districts in which such property is located in the tax year immediately prior to the removal of such acquired property from the tax duplicate, and either:

(a) The total revenue which would be produced by the tax rate of each such taxing district in the tax year immediately prior to the removal of such acquired property from the tax duplicate, applied to the real estate tax duplicate of each of such taxing districts in each tax year subsequent to the year of removal; or

(b) The combined revenue from real estate taxes of all such taxing districts

in each tax year subsequent to the year of removal, whichever is the greater.

The county auditor of each county in which such property is located shall apportion each such annual payment to each taxing district as if such annual payment has been levied and collected as a tax.

Such annual payments shall never again be made after they have ceased.

The regional transit authority may be exempted from such payment by agreement of the affected taxing district or districts in the county in which such property is located.

HISTORY: 1970 S 125, eff. 8-25-70

306.37 Revenue bonds

A regional transit authority which proposes to acquire by purchase or otherwise, or proposes to construct, replace, improve, extend, enlarge, maintain, or operate any transit facility, and desires

to raise money for any one or more of such purposes or for the purpose of repaying or refunding any outstanding issue of bonds of the regional transit authority or pay any obligation assumed by it or of repaying or refunding any outstanding issue of bonds or notes of any political subdivision issued to acquire, construct, replace, improve, extend, enlarge, or maintain any transit facility acquired by the regional transit authority or repay any advances or loans made to the regional transit authority by any person or political subdivision, may issue revenue bonds therefor which bonds shall not be secured by the general credit of the regional transit authority or by the general credit of the state or any political subdivision.

Such revenue bonds shall have all the qualities of negotiable instruments and shall be secured only by a pledge of and

a lien on the revenues of the regional transit authority derived from rentals, fees, rates, charges, or other revenues from any transit facility of the regional transit authority as are designated in said resolution, including but not limited to the transit facility to be acquired, constructed, replaced, improved, extended, enlarged, or maintained with the proceeds of said bond issue, after provision only for the reasonable cost of operating and maintaining the transit facility of the regional transit authority so designated.

Said bonds shall further be secured by the covenant of the regional transit authority to maintain such rentals, fees, rates, charges, or other revenues as will produce revenues sufficient to meet costs of operating and maintaining such transit facility, to meet the interest, principal, and other requirements of such bonds, and

to establish and maintain reserves for the foregoing purposes, and may be secured by a mortgage on any real property or interests therein acquired form the proceeds of such revenue bonds.

HISTORY: 1970 S 125, eff. 8-25-70
131 v H 421

306.38 Bonds secured by trust agreement

At the discretion of the board of trustees of a regional transit authority, the revenue bonds of the regional transit authority may be secured by a trust agreement between the board of trustees on behalf of the regional transit authority and a corporate trustee, which trustee may be any trust company or bank having powers of a trust company, within or without the state.

Such trust agreement may provide for the pledge or assignment of the revenues to

be received, shall not pledge the general credit of the regional transit authority, but may include a mortgage on any real property or interests therein acquired from the proceeds of such revenue bonds. The trust agreement or the resolution providing for the issuance of revenue bonds may set forth the rights and remedies of the bond holders and trustees, including, in the event of a default, appointment of a receiver to administer and operate transit facilities, and may contain such other provisions for protecting and enforcing their rights and remedies as are, in the discretion of the board of trustees, reasonable and proper. Such agreement or resolution may provide for the custody, investment, and disbursement of all moneys derived from the sale of such bonds or from the revenues of the regional transit authority pledging to pay the interest and

principal on such bonds and may provide for the deposit of such funds without regard to section 306.42 of the Revised Code.

HISTORY: 1970 S 125, eff. 8-25-70
131 v H 421

306.39 Interest and maturity of bonds; refunding bonds

Revenue bonds issued by a regional transit authority shall bear interest at the rate or rates approv-d by the board of trustees, shall mature within forty years following the date of issuance, and in such amount, at such times, and in such number of installments as may be provided in the resolution authorizing their issuance. Such resolution shall also provide for the execution and sealing of the bonds and the use of facsimile signatures and facsimile of the seal, the manner of sale of the bonds, and such other terms and con-

ditions relative to the issuance, sale, and retirement of said bonds as the board of trustees in their discretion believe reasonable and proper.

If such bonds are callable, bonds called may be refunded. If revenues prove insufficient to pay maturing bonds, bonds which have matured or are about to mature may be refunded.

HISTORY: 1970 S 125, eff. 8-25-70
1969 S 245; 131 v H 421

306.40 General obligations bonds; use of proceeds; election; tax levy; anticipatory notes; issuance of obligation without vote

The regional transit authority may submit to the electors within its territorial boundaries the question of issuing bonds of such authority and also the necessity of a tax outside the limitation imposed by Section 2 of Article XII, Ohio

Constitution, to pay the interest on and to retire said bonds. Such bonds when so approved by the electors may be issued by the regional transit authority to purchase, acquire, construct, replace, improve, extend, and enlarge any transit facility which serves or will serve an area within the territorial boundaries of the regional transit authority; provided, that the net indebtedness, as defined for a municipal corporation in section 133.03 of the Revised Code, incurred by a regional transit authority shall never exceed five per cent of the total value of all property within the territorial boundaries of the regional transit authority as listed and assessed for taxation, and that no part of the proceeds of such bonds shall at any time be used to meet or defray any of the normal operating expenses of any transit facility or part thereof. The proceedings

for such election and for the issuance and sale of such bonds shall be as provided by section 133.01 to 133.65 of the Revised Code, provided that such a bond issue may be submitted to the electors and such bonds may be issued for any one or more of the purposes set forth in this section. If a majority of those voting upon the proposition vote in favor thereof, the board of trustees of the regional transit authority may proceed with the issue of such bonds and the levy of a tax outside the ten mill limitation, sufficient in amount to pay the interest on and retire such bonds at maturity. Notes may be issued in anticipation of such bonds as provided in section 133.32 of the Revised Code. The board of trustees shall be the taxing authority or bond issuing authority of the regional transit authority.

The regional transit authority may

also issue bonds and notes in anticipation of such bonds for any one or more of the purposes set forth in this section and as provided in sections 133.01 to 133.65 of the Revised Code, without a vote of the electors residing within the territorial boundaries of the authority. Prior to the issuance of such bonds or notes, the fiscal officer of the authority shall file with the board of trustees a certificate showing that the estimated revenues of the authority from sources other than ad valorem taxes on property, after first meeting from all available resources the estimated operation and maintenance expenses of the authority as they become due, are sufficient to pay the principal of and interest on such bonds as they become due, and that the maximum aggregate amount of principal and interest to become payable in any one calendar year on all of the bonds of the

authority issued pursuant to this section without a vote of the electors does not exceed one-tenth of one per cent of the total value of all the property within the territory of the authority as listed and assessed for taxation. To the extent that revenues of the authority from sources other than ad valorem taxes on property, after paying the operation and maintenance expenses of the facilities financed from the proceeds of bonds and notes issued pursuant to this section and any moneys required for the payment of the principal of and interest and any premium on revenue bonds issued by the regional transit authority pursuant to section 306.37 of the Revised Code, are sufficient to pay the principal of and interest on bonds issued pursuant to this section as they become due, such bonds shall not be considered within the five per cent limit-

ation on indebtedness imposed by this section.

HISTORY: 1974 S 544, eff. 6-29-74

1970 S 125; 131 v H 421

306.42 Secretary-treasurer; bond

The secretary-treasurer of the regional transit authority shall be the fiscal officer of the regional transit authority and the custodian of its funds and records and shall assist the board of directors in such particulars as it directs in the performance of its duties.

Before receiving any moneys, the secretary-treasurer shall furnish bond in such amount as is determined by the board of trustees of the regional transit authority with surety satisfactory to it, and all funds coming into the hands of the secretary-treasurer shall be deposited by him to the account of the regional transit authority in one or more such depositories

as are qualified to receive deposits of county funds, which deposits shall be secured in the same manner as county funds are required to be secured. No disbursements shall be made from such funds except in accordance with rules and regulations adopted by the board of trustees of the regional transit authority.

HISTORY: 131 v H 421. eff. 11-1-65

306.43 Contracts; bidding procedures

The board of trustees of a regional transit authority or any officer or employee designated by such board may make any contract for the purchase of supplies or material or for labor for any work, under the supervision of the board, the cost of which shall not exceed five thousand dillars. When an expenditure, other than for the acquisition of real estate, the discharge of noncontractual claims, personal services, or for the product or

services of public utilities, exceeds five thousand dollars, such expenditure shall be made only after a notice calling for bids has been published once a week for two consecutive weeks in at least one newspaper of general circulation within the territorial boundaries of the regional transit authority. A bid for the construction, demolition, alteration, repair, or reconstruction of an improvement shall meet the requirements of section 153.54 of the Revised Code. A bid for any other contract authorized by this section shall be accompanied by a good and approved bond with ample security conditioned on the carrying out of the contract. The board may let the contract to the lowest and best bidder. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done, approved by the board. The plans

and specifications shall at all times be made and considered part of the contract. Said contract shall be approved by the board and signed on behalf of the regional transit authority and by the contractor. No sale of any real or personal property or a lease thereof having a term thereof in excess of five years shall be made except with the highest and best bidder after publication of notice for bids in the manner above provided.

Competitive bidding under this section is not required when:

(A) The board of trustees of a regional transit authority, by a two-thirds affirmative vote of its members, determines that a real and present emergency exists and such determination and the reasons therefor are entered in the proceedings of the board, when:

(1) The estimated cost is less than

ten thousand dollars; or

(2) There is actual physical damage to structures or equipment.

(B) Such purchase consists of supplies or a replacement or supplemental part or parts for a product or equipment owned or leased by the regional transit authority and the only source of supply for such supplies, part, or parts is limited to a single supplier;

(C) The lease is a renewal of a lease for electronic data processing equipment, services, or systems;

(D) The sale of routine maintenance materials is made in an emergency situation to another public agency, public transit system, or regional transit authority;

(E) The sale to another public agency, public transit system, or regional transit authority is of capital equipment unique to the operation of a public transit

system and is authorized by a two-thirds affirmative vote of the board of trustees of the regional transit authority making the sale;

(F) Services or supplies are available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code.

HISTORY: 1980 S 157, eff. 8-1-80

1977 H 1; 1976 S 427, S 430; 1970 S 125; 131 v H 421

306.44 Parties to contract

The board of trustees of a regional transit authority may enter into such contracts or other arrangements with the United States government or any department thereof, with the state government of this or other states, with counties, municipalities, townships, or other governmental agencies created by or under the authority of the laws of the state or other

states, with persons, with public corporations and private corporations as may be necessary or convenient for the making of surveys, investigations, or reports thereon, and for the exercise of the powers granted by sections 306.30 to 306.47, inclusive, of the Revised Code.

HISTORY: 131 v H 421, eff. 11-1-65

306.45 Public employees

All officers and employees of a regional transit authority shall be considered as public employees within the meaning of section 145.01 of the Revised Code and a regional transit authority, its officers, and employees shall be subject to sections 145.01 to 145.57, inclusive, of the Revised Code.

HISTORY: 131 v H 421, eff. 11-1-65

306.46 Limitations on authority

Nothing in sections 306.30 to 306.47, inclusive, of the Revised Code, shall

limit the exercise of the power or authority granted to counties or municipal corporations by sections 307.20, 717.01, and 719.01 of the Revised Code.

HISTORY: 131 v H 421, eff. 11-1-65

306.47 Payment of expenses

The board of county commissioners of any county included within a regional transit authority may appropriate annually, from moneys to the credit of the general fund of the county and not otherwise appropriated, that portion of the expense of the regional transit authority to be paid by such county as provided in the resolution creating or enlarging the regional transit authority adopted under section 306.32 or 306.321 of the Revised Code, or by any amendment thereto.

HISTORY: 1975 S 300, eff. 6-24-75

132 v H 1; 131 v H 421

306.48 Insurance for personnel

A regional transit authority may procure and pay all or any part of the cost of group hospitalization, surgical, major medical, or sickness and accident insurance or a combination of any of the foregoing for the officers and employees of the regional transit authority and their immediate dependents, whether issued by an insurance company, nonprofit medical care corporation, or hospital service association duty authorized to do business in this state.

HISTORY: 1970 S 125, eff. 8-25-70

306.49 Levy of property tax; purpose

(A) Upon the affirmative vote of at least a majority of the qualified electors within the territorial boundaries of the regional transit authority voting on the question at an election held for the purpose of authorizing same, the regional transit authority may levy upon the

property within its territorial boundaries a tax, for all purposes other than bond debt charges, not in excess of five mills annually on the total value of all property as listed and assessed for taxation for any period not exceeding ten years. Such election shall be called, held, canvassed, and certified in the same manner as is provided for elections held pursuant to section 5705.191 of the Revised Code. On approval of such a levy, notes may be issued in anticipation of the collection of the proceeds thereof, in the amount and manner and at the times as are provided in section 5705.193 of the Revised Code for the issuance of notes by a county in anticipation of the proceeds of a tax levy. The regional transit authority may borrow money in anticipation of the collection of current revenues as provided in section

133.20 of the Revised Code.

(B) Whenever the question of a tax upon property as provided in division (A) of this seciton has been rejected at an election, the regional transit authority may thereafter submit the question at a subsequent election to the qualified electors of the largest municipal corporation located within the territorial boundaries of the regional transit authority, and to the qualified electors of any other municipal corporation or township located within such boundaries, when its legislative authority or board of trustees has adopted a resolution requesting to be included in such election and has filed a copy thereof with the secretary-treasurer of the regional transit authority not later than ninety days prior to the date of the election.

Upon the affirmative vote of a majority of the qualified electors of the

largest municipal corporation voting on the question, the regional transit authority may levy a tax as provided in division (A) of this section upon all property within the municipal corporation, and upon all property within any other municipal corporation or township included in the election where a majority of the qualified electors of such municipal corporation or township have authorized the tax.

Whenever a tax upon property has been authorized pursuant to this division, the legislative authority of any municipal corporation, or the board of trustees of any township, that is not subject to the tax, but is included within the territorial boundaries of the regional transit authorith, may adopt a resolution requesting the regional transit authority to hold an election submitting the question of levying the tax to the electors of such muni-

cipal corporation or township.

Any election held pursuant to this division shall be called, held, canvassed, and certified in the same manner as provided for elections held pursuant to division (A) of this section, and any tax authorized by an election held under this division shall grant the same authority and be subject to the same requirements with respect to the issuance of notes and the borrowing of money as provided in division (A) of this section.

(C) Any tax authorized by an election held under this section shall be levied annually as provided in section 5705.34 of the Revised Code during the period authorized, and shall be for the purpose of providing funds necessary for the regional transit authority budget, except that any tax authorized under division (B) of this

section shall be used for such purpose only in those municipal corporations or townships which have authorized the tax. The collection of such tax levy shall conform in all matters to the provisions of the Revised Code governing the collection of taxes and assessments levied by taxing districts, and the same provisions concerning the nonpayment of taxes shall apply to taxes levied pursuant to this section.

HISTORY: 1974 S 544, eff. 6-29-74
1972 H 1100; 1970 S 125

306.50 Bonds constitute lawful investments

Bonds of a regional transit authority issued pursuant to sections 306.30 to 306.53, inclusive, of the Revised Code, shall be lawful investments of banks, savings banks, mutual savings banks, trust companies, building and loan associations, deposit guaranty associations, of the bond

retirement funds or the sinking funds of municipal corporations, boards of education, regional transit authorities, and counties, of the industrial commission, state teachers retirement system, public school employees retirement system, police and firemen's disability and pension fund, public employees retirement system, and domestic insurance companies for life and other than life, and shall be acceptable as security for the deposit of public moneys.

306.51 Exchange of property

The legislative authority of any municipal corporation, county, township, school district, or other political subdivision or taxing district, may convey or lease to, or exchange with, any regional transit authority or any such authority may convey or lease to, or exchange with, a municipal corporation, county, township, school district, or other political sub-

division or taxing district, without competitive bidding and at mutually agreeable terms, any personal or real property, or any interest therein, to be used by the recipient for its purposes.

HISTORY: 1970 S 125, eff. 8-25-70

306.52 Property exempt from taxation

A regional transit authority created under sections 306.30 to 306.53, inclusive of the Revised Code, shall be exempt from and shall not be required to pay any taxes on property, both real and personal, belonging to any such authority, which is used exclusively for any public purpose; provided, such exemption shall not apply to any property belonging to any authority while a private enterprise is a lessee of such property under written lease providing for tenancy for longer than one year.

HISTORY: 1970 S 125, eff. 8-25-70

306.53 Cooperation with governmental agencies

A regional transit authority may cooperate with other governmental agencies of this state, or of the United States, to carry out the purposes set forth in section 306.31 of the Revised Code.

HISTORY: 1970 S.125, eff. 8-25-70

306.54 Dissolution or modification in membership

Subject to making due provisions for the payment and performance of its obligations, the resolution or ordinance creating the regional transit authority may provide for its dissolution or modification in membership under circumstances described therein, or a regional transit authority may be dissolved or its membership modified by its board of trustees with the consent of the subdivision or subdivisions creating such regional transit authority.

In the event of dissolution the properties of the regional transit authority shall be transferred to the subdivision creating it, or if created by more than one subdivision, to the subdivisions creating it in such manner as may be agreed upon by such subdivisions.

HISTORY: 1972 H 1114, eff. 3-22-72

306.70 Submission of question of adoption of sales and use tax

A tax proposed to be levied by a board of county commissioners or by the board of trustees of a regional transit authority pursuant to sections 5739.023 and 5741.022 of the Revised Code shall not become effective until it is submitted to the electors residing within the county or within the territorial boundaries of the regional transit authority and approved by a majority of the electors voting thereon. Such question shall be submitted at a

general election or at a special election on a day specified in the resolution levying the tax and occurring not less than seventy-five days after such resolution is certified to the board of elections, in accordance with section 3505.071 of the Revised Code.

The board of elections of the county or of each county in which any territory of the regional transit authority is located shall make the necessary arrangements for the submission of such question to the electors of the county or regional transit authority, and the election shall be held, canvassed, and certified in the same manner as regular elections for the election of county officers. Notice of the election shall be published in one or more newspapers which in the aggregate are of general circulation in the territory of the county or of the regional transit authority

once a week for four consecutive weeks prior to the election stating the type, rate and purpose of the tax to be levied, the length of time during which the tax will be in effect, and the time and place of the election.

More than one such question may be submitted at the same election. The form of the ballots cast at such shall be:

"Shall a(n) .....(sales and use) ....tax be levied for all transit purposes of the.....(here insert name of the county or regional transit authority) at a rate not exceeding.....(here insert percentage) per cent for.....(here insert number of years the tax is to be in effect, or that it is to be in effect for a continuing period of time)?"

If the tax proposed to be levied is a continuation of an existing tax, whether at the same rate or at an increased or

reduced rate, or an increase in the rate of an existing tax, the notice and ballot form shall so state.

The board of elections to which the resolution was certified shall certify the results of the election to the county auditor of the county or secretary-treasurer of the regional transit authority levying the tax and to the tax commissioner of the state.

HISTORY: 1980 H 1062, eff. 3-23-81
1974 S 544

306.71 Question of reduction of rate of continuing sales and use tax

The question of the decrease of the rate of a tax approved for a continuing period of time by the voters of a county or regional transit authority pursuant to sections 5739.023 and 5741.022 of the Revised Code may be initiated by the filing of a petition with the board of

elections of the county, or in the case of a regional transit authority with the board of elections as determined pursuant to section 3505.071 of the Revised Code, prior to the seventy-fifth day before the general election in any year requesting that an election be held on such question. Such petition shall state the amount of the proposed decrease in the rate of the tax and shall be signed by at least ten per cent of the number of qualified electors residing in such county, or in the territory of the regional transit authority, who voted at the last general election.

After determination by it that such petition is valid, the board of elections shall submit the question to the electors of the county or regional transit authority at the next succeeding general election. The election shall be conducted,

notice thereof shall be given, and the results thereof shall be certified in the manner provided in section 306.70 of the Revised Code. If a majority of the qualified electors voting on such question approve the proposed decrease in rate, such decrease in rate shall become effective on the first day of the second January after such election.

In any case where bonds, or notes in anticipation of bonds, of a regional transit authority have been issued under section 306.40 of the Revised Code without a vote of the electors while the tax proposed to be reduced was in effect, the board of trustees of the regional transit authority shall continue to levy and collect under authority of the original election authorizing the tax a rate of tax in each year which the authority reasonably estimates will produce an amount in that

year equal to the amount of principal of and interest on such bonds as is payable in that year.

HISTORY: 1980 H 1062, eff. 3-23-81

1974 S 544